

**REMARKS**

Reconsideration and allowance of this application are respectfully requested. Claims 2, 4-5, 9, 12, 14-15, and 18-28 are cancelled. Claims 1, 3, 6-8, 10-11, 13, and 16-17, and 29-33 remain in this application and, as amended herein, are submitted for the Examiner's reconsideration.

Claims 10 and 33 have been amended solely to have the claims better conform to the requirements of U.S. practice. None of these amendments is intended to narrow the scope of any of these claims, and no new matter has been added by these amendments.

In the Office Action, claims 1, 3, 6-8, 10-11, 13, 16-17, and 29-33 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Martineau (U.S. Patent No. 5,893,910) in view of Kowald (U.S. Patent No. 7,362,946), and in view of Tagawa (U.S. Patent No. 7,315,829), and further in view of Yaegashi (U.S. Patent No. 6,499,106). Applicants submit that the claims are patentably distinguishable over the relied on sections of the references.

As amended herein, claim 1 recites:

reference inquiry generating means for generating reference inquiry information including a reference sound frame of music data stored in the information center server that corresponds to the extracted particular sound frame of music data and having a timing of a start of encoding or recording that is consistent with that particular digital signal processing apparatus[.]

(Emphasis added.) Neither the relied on sections of Martineau, the relied on sections of Kowald, the relied on sections of Tagawa, nor the relied on sections of Yaegashi disclose or suggest generating reference inquiry information including a reference sound frame of music data that corresponds to an extracted particular sound frame of music data.

Rather, such sections of Martineau merely describe

generating a substantially unique identification code or signature algorithm name for a given file. (See, e.g., Abstract 11.5-7, col.2 11.30-34, col.3 11.29-32 and 48-51, and col.8 11.48-51.) These sections are not concerned with generating a reference sound frame of music data and are not concerned with generating a reference sound frame of music data that corresponds to an extracted particular sound frame of music data.

Such sections of Kowald merely describe dividing a clip into segments so that portions of the clips may be edited out to allow for effective data compression. (See, e.g., col.7 11.16-25.) These sections are not concerned with generating a reference sound frame of music data and are not concerned with generating a reference sound frame of music data that corresponds to an extracted particular sound frame of music data.

Such sections of Yaegashi merely describe a disc ID that is recorded on each disc of a set of CDs. (See col.9 11.1-3 and col.10 11.19-21.) These sections are not concerned with generating a reference sound frame of music data and are not concerned with generating a reference sound frame of music data that corresponds to an extracted particular sound frame of music data.

The relied on sections of Tagawa do not overcome the deficiencies of the relied on sections of Martineau, Kowald, and Yaegashi.

Amended claim 1 also calls for:

comparing means for comparing the extracted particular sound frame of music data included in the inquiry information and the reference sound frame of music data, the extracted particular sound frame of music data included in the inquiry information matching the reference sound frame of music data being an indication that the encoded digital data recorded on the storage medium has the timing of the start of encoding or

recording that is consistent with that particular digital signal processing apparatus and thereby is legally purchased data, the extracted particular sound frame of music data included in the inquiry information not matching the reference sound frame of music data being an indication that the encoded digital data recorded on the storage medium has a timing of a start of encoding or recording that is not consistent with that particular digital signal processing apparatus[.]

(Emphasis added.) Neither the relied on sections of Martineau, the relied on sections of Kowald, the relied on sections of Tagawa, nor the relied on sections of Yaegashi disclose or suggest comparing an extracted particular sound frame of music data included in inquiry information and a reference sound frame of music data. Moreover, neither the relied on sections of Martineau, the relied on sections of Kowald, the relied on sections of Tagawa, nor the relied on sections of Yaegashi disclose or suggest an extracted particular sound frame of music data included in inquiry information matching a reference sound frame of music data. Further, neither the relied on sections of Martineau, the relied on sections of Kowald, the relied on sections of Tagawa, nor the relied on sections of Yaegashi disclose or suggest an extracted particular sound frame of music data included in inquiry information matching a reference sound frame of music data being an indication that encoded digital data recorded on a storage medium has a timing of a start of encoding or recording that is consistent with that particular digital signal processing apparatus. Still further, neither the relied on sections of Martineau, the relied on sections of Kowald, the relied on sections of Tagawa, nor the relied on sections of Yaegashi disclose or suggest an extracted particular sound frame of music data included in inquiry information not matching a reference sound frame of music data. Additionally, neither the relied on sections of Martineau, the relied on sections of Kowald, the relied

on sections of Tagawa, nor the relied on sections of Yaegashi disclose or suggest an extracted particular sound frame of music data included in inquiry information not matching a reference sound frame of music data being an indication that encoded digital data recorded on a storage medium has a timing of a start of encoding or recording that is not consistent with that particular digital signal processing apparatus.

Rather, such sections of Martineau are merely concerned with comparing a substantially unique identification code or signature algorithm name for a given file with a stored identification code or signature algorithm name (see, e.g., col.2 11.35-42), such sections of Kowald are merely concerned with editing clip segments (see, e.g., col.7 11.16-25), and such sections of Yaegashi are merely concerned correlating a disc ID of each disc of each set of CDs recorded in a central access control system database and a list of unique remote location ID numbers also stored in the database (see col.9 11.11-19 and col.10 11.29-37). These sections are not concerned with the features set out in the above excerpt of claim 1.

The relied on sections of Tagawa do not overcome these deficiencies.

It follows, for at least these reasons, that neither the relied on sections of Martineau, the relied on sections of Kowald, the relied on sections of Tagawa, nor the relied on sections of Yaegashi, whether taken alone or in combination, disclose or suggest the combination set out in claim 1. Claim 1 is therefore patentably distinct and unobvious over the relied on sections of the references.

Independent claims 11 and 29 each call for features similar to those set out in the above excerpts of claim 1.

Claims 11 and 29 are therefore each patentably distinct and unobvious over the relied on sections of Martineau, Kowald, Tagawa, and Yaegashi at least for the same reasons.

Claims 3, 6-8 and 10 depend from claim 1, claims 13 and 16-17 depend from claim 11, and claims 30-33 depend from claim 29. Therefore, each of these claims is distinguishable over the relied on art for at least the same reasons as the claim from which it depends.

Accordingly, Applicants respectfully request the withdrawal of the rejection under 35 U.S.C. § 103(a).

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that the Examiner telephone applicants' attorney at (908) 654-5000 in order to overcome any additional objections which the Examiner might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

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